

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

LAKITA SIMMONS,

Plaintiff,

v.

ACCORDIUS HEALTH, LLC,

Defendant.

NOTICE OF REMOVAL

1:20-cv-337

COME NOW the Defendant, Accordius Health, LLC, by counsel, and pursuant to 28 U.S.C. §§ 1332, 1441, 1446, and other applicable laws, hereby gives notice of the removal of this action from the North Carolina General Court of Justice, Superior Court Division, Buncombe County, Case No. 20 CV 03743, to the United States District Court, Western District of North Carolina, Asheville Division. In support of this Notice of Removal, the Defendant states as follows:

IDENTIFICATION AND CITIZENSHIP OF PARTIES

1. At the time this action was commenced, Plaintiff was a resident of Buncombe County, North Carolina.
2. At the time this action was commenced, and as of the date of this Notice, Defendant is a New York limited liability company, with its principal office located in Englewood Cliffs, New Jersey.

THE CIVIL ACTION

3. Plaintiff instituted a civil action against Defendant alleging violations of N.C. Gen. Stat. 95-241 *et seq.* (See **Exhibit A**, Complaint).

4. Defendant's registered agent was served on October 24, 2020. (See **Exhibit B**, Notice of Service).

GROUND FOR REMOVAL

5. Based upon the facts alleged above, there is complete diversity of citizenship between the parties as Plaintiff is a citizen of the state of North Carolina and Defendant is a citizen of the state of New Jersey. Therefore, the diversity of citizenship requirement set forth in 28 U.S.C. § 1332(a)(1) is satisfied.

6. Pursuant to 28 U.S.C. §1446(b), this Notice of Removal is being filed within thirty days of the receipt by Defendant of the initial pleading in the North Carolina state court proceeding.

7. Pursuant to 28 U.S.C. §1367, this Court has supplemental jurisdiction over any asserted state law claims.

8. Defendant will promptly give written notice of the filing of this notice of removal to Plaintiff, through her counsel, and will file a copy of this notice of removal with the clerk of the state court.

9. Defendant hereby removes the above-entitled action from the North Carolina General Court of Justice, Superior Court Division, Buncombe County, to

the United States District Court for the Western District of North Carolina, Asheville Division.

10. Although Plaintiff claims that the amount in controversy with respect to her claims exceeds the sum or value of \$25,000.00, exclusive of interest and costs, Defendant submits that the amount in controversy with respect to Plaintiff's claims against exceeds the amount specified in 28 U.S.C. §1332(a) and therefore, that this Court has original subject matter jurisdiction over Plaintiff's claims pursuant to 28 U.S.C. §1332. Therefore, the amount in controversy requirement set forth in 28 U.S.C. §1332(a) is satisfied with respect to Plaintiff's claims.

11. For the above reasons, this Court has original subject matter jurisdiction over Plaintiff's claims pursuant to 28 U.S.C. §1332.

**THE PROCEDURAL REQUIREMENTS FOR
REMOVAL HAVE BEEN SATISFIED**

12. The allegations of this Notice are true and correct and within the jurisdiction of the United States District Court for the Western District of North Carolina, Asheville Division, and, as noted above, this cause of action is removable to this Court, pursuant to 28 U.S.C. §1441.

13. Pursuant to 28 U.S.C. §1446(a), copies of all papers, including all process, pleadings, and orders served on Defendant in the State Court action are attached hereto.

14. This Notice of Removal is filed within thirty (30) days after receipt by Defendant of the copy of the Complaint and summons in this action and Plaintiff is estopped from seeking remand of this matter on this basis.

15. Notice to the State Court of North Carolina of the removal of this action, including a true and correct copy of this Notice is filed simultaneously with the Clerk of the North Carolina General Court of Justice, Superior Court Division, Buncombe County, as required by 28 U.S.C. §1446(d). (See **Exhibit C**, Notice).

16. Defendant consents to removal of this case.

NO WAIVER OF DEFENSES

17. By removing this action from the State Court, Defendant does not waive any defenses available to it.

18. By removing this action from the State Court, Defendant does not admit any of the allegations set forth in the Complaint, except for the allegations expressly admitted in Defendant's Answer to the Complaint.

WHEREFORE, the Defendant, Accordius Health, LLC, removes this action from the North Carolina General Court of Justice, Superior Court Division, Buncombe County, to the United State District Court for the Western District of North Carolina, Asheville Division.

This the 23rd day of November, 2020.

/s/Claire Vujanovic

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Counsel for Defendant

CERTIFICATE OF SERVICE

The undersigned certifies that on the 23rd day of November, 2020 the foregoing NOTICE OF REMOVAL in the above-entitled action was served by depositing a copy of the document in a prepaid addressed envelope in the US Mail addressed as follows:

Walter E. Daniels, III
14 S. Pack Squire, Suite 502
Ashville, North Carolina 28801

/s/Claire Vujanovic

Claire Vujanovic